



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 18, 1998

Ms. Sandra C. Joseph
Open Records Counsel/Disclosure Officer
Comptroller of Public Accounts
111 East 17th Street, LBJ State Bldg.
Austin, Texas 78774-0100

OR98-1218

Dear Ms. Joseph:

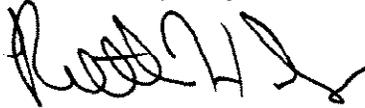
You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 114859.

The Comptroller of Public Accounts (the "comptroller") received a request for "a list of payee names and addresses and the check and warrant numbers for each outstanding franchise tax refund check and warrant (that is) equal to or greater than one thousand dollars." You assert that the information is protected from disclosure under section 111.006 of the Tax Code as interpreted by the Texas Supreme Court in *A&T Consultants Inc. v. Sharp*, 904 S.W.2d 668 (Tex. 1995). Section 111.006(a)(2) provides that information secured, derived, or obtained by the comptroller during the course of an examination of a taxpayer's books, records, papers, officers, or employees, is confidential.

The Texas Supreme Court has interpreted this statute to prohibit release of the amount of a deficiency assessment or refund warrant. *A&T Consultants Inc. v. Sharp*, 904 S.W.2d, 668, 680 (Tex. 1995). The court stated: "We conclude that it strikes the proper balance for the comptroller to disclose that audits resulted in a deficiency assessment or refund warrant, but not to disclose the amounts of an assessment or refund. The fact of a deficiency or a refund reveals nothing about taxpayers except that they miscalculated their tax." *Id.* In this situation, the taxpayer seeks the identity of taxpayers who are entitled to a refund amount that is within a certain dollar amount range. We conclude that this is the same type of information the court in *A&T Consultants Inc. v. Sharp* determined to be confidential under the Tax Code. Thus, the information at issue may not be provided.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have any questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Ruth H. Soucy", written in a cursive style.

Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref.: ID# 114859

cc: Ms. Judith Nagy
Nelson-Brown Equities, Inc.
P.O. Box 3027
Portland, Oregon 97208
(w/o enclosures)